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ANNALS
OF THE
AMERICAN ACADEMY
OF
POLITICAL AND SOCIAL SCIENCE.

THE SOUTH AFRICAN CONFLICT—ITS LEGAL
AND POLITICAL ASPECT.

Long before European colonization began South Africa was the scene of frequent conflicts between the three great native races, the Bantu, the Hottentot and the Bushman. Of these the Bantus were largest in size and most warlike in their tastes. From them have descended the Kaffir, the Zulu, the Basuto, the Bechuana and the Matabele tribes, whose subjugation by Europeans has involved many long and bloody wars. The Hottentots were yellow-skinned and less rugged but superior in social organization to the third race, the Bushmen, who have remained untamable savages, living in holes and caves. The original home of the Bantu tribes was in Central Africa. They had a highly developed clan organization and were migratory in habit. Wherever they moved they drove the Hottentots and Bushmen before them. At the time of the Dutch settlement in South Africa the Bantus had moved down from the north and, roughly speaking, occupied the districts now known as Matabeleland, Bechuanaland, the Boer Republics, Swaziland and Zululand. The Hottentots going before them occupied the coast and the best grazing portions of Natal and Cape Colony.

It was thus the Hottentots with whom the Dutch first came in contact.

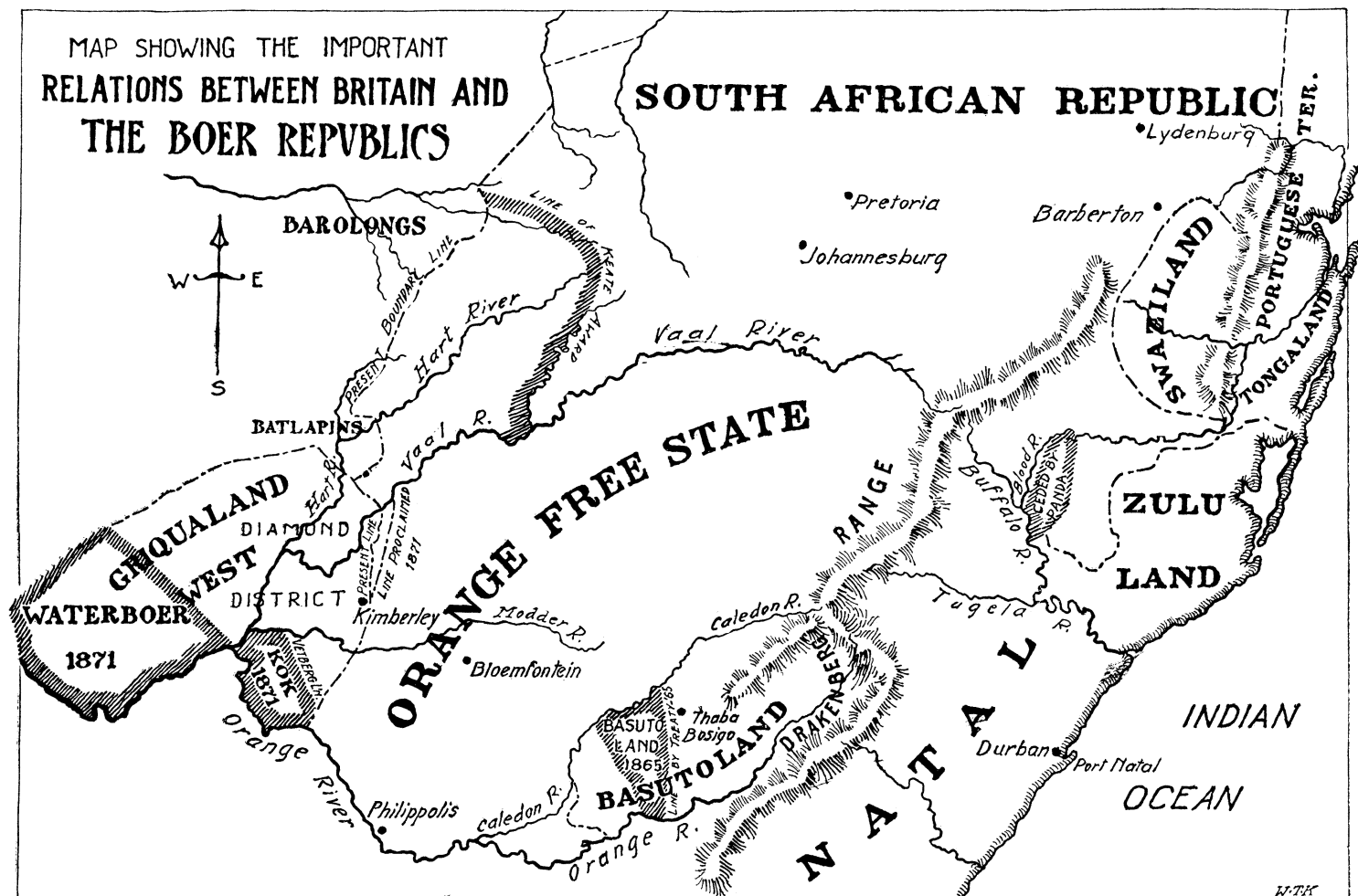
After establishing a port of call at the Cape in 1652, the Dutch purchased a large strip of land from the natives, whom they found to be a roving, desultory people with little capacity except for loafing and minding cattle. Their chief characteristics were cunning and an inordinate habit of stealing. "They ran off with the sailors' clothes drying on the shore; they took the iron chains from the plow lying for repairs before the blacksmith's shop; they laid hold of the children in order to tear the buttons from their clothes. The commander found it necessary to issue more than one proclamation warning workmen to keep a watchful eye over their arms and their picks and shovels."* After the Dutch began to farm, stealing took the form of "cattle lifting." The natives, finding cattle roving about unguarded, could not resist the temptation to drive them away. This habit of stealing has been a chief cause of the hostility which still prevails between the white and black races in South Africa. Owing largely to it, contact between the races has always led to a struggle, and colonization has resulted in the subjugation or the extermination of native tribes.

The advent of the English in South Africa simply added a third contestant to the two that were already struggling for supremacy. The Dutch had come to the country with traditions and ideals very similar to those of the English. They were accustomed to commercial and industrial occupations and to self-government. In the new country, however, they came under the influence of a new environment. Here the resources at hand were largely agricultural, and this condition took the colonists from the town and transformed them into "Boers" or farmers. The political conditions were also different from those of the mother country. The East India Company, by which the colony was

*Lucas, vol. iv, p. 38, *et seq.*

MAP SHOWING THE IMPORTANT
RELATIONS BETWEEN BRITAIN AND
THE BOER REPUBLICS

SOUTH AFRICAN REPUBLIC



The shaded lines indicate important limits and claims discussed in this article.

controlled, was a close corporation. The governor was the servant of a trading company and had arbitrary power. Under these circumstances there grew up a division of interests between traders and soldiers at the port and the agricultural colonists; beyond the town there had grown up a farmer community, having all the instincts of its liberty-loving, self-protecting Dutch ancestry, accentuated by rural conditions. So far did these farmers grow out of sympathy with the mercantile and soldier classes that they moved away into upper Stellenboch and Graaf-Reinet to avoid the laws of the port.

When the fortunes of European warfare gave Cape Colony to the English, they came as soldiers and traders as well as the hereditary enemies of the Dutch.* Moreover, the English made the mistake of setting up the same form of government as that employed by the trading company against which the Boers had already rebelled. It was arbitrary in the extreme, no provision being made for popular consultation or conciliation. The voice of the governor was law.† Against him, resistance was treason. Dutch traditions and customs were violated. The Hottentots were armed and made to do military service against the Dutch,‡ and this led to a slave insurrection.§ Their religion was interfered with, the governor assuming control over their churches.|| Their land tenure was altered without their consent, and against their wishes.¶ The court system was changed, abolishing the Heenreden and the Landdrost, the only institutions remaining in which the Dutch had representatives. English was made the official language,** and

* The English first took possession at the Cape in 1795. In 1803 they resigned in favor of the Stadtholder, but took possession again in 1806, and in the settlement of 1814 the Cape was formally ceded to Great Britain.

† Theal, vol. iii, pp. 134, 277.

‡ Theal, vol. iii, pp. 12, 40, 88, 186, 218, 373.

§ Theal, vol. iii, pp. 43, 137; Lucas, vol. iv, p. 98.

|| Theal, vol. iii, pp. 33, 61, 75, 258.

¶ Theal, vol. iii, p. 167.

** Theal, vol. iii, p. 242.

those who could not speak English were debarred from the right to sit as jurors.* This utter disregard for Dutch feeling is reflected in the instructions regarding the settlement of the east borders of Cape Colony in 1831. These directed that grants of land be made to "respectable settlers," but by the same instructions it appeared that the English and the Hottentots were the only ones to be allowed to settle.† Slavery was also a cause of great irritation, of misrepresentation and misunderstanding.‡ Slavery had a less firm hold on the Cape Colony than on other slave-holding countries, as the chief form of industry there made it less profitable. On the second of October, 1826, there was a meeting of slave-holders in Graaf-Reinet, at which resolutions were passed favoring a gradual emancipation.§ They proposed that all children of slaves should be free at birth. By this method the institution would have become extinct with a single generation, the labor system would have sustained no shock and the slave owners would have suffered no immediate loss. These resolutions were accepted by the people throughout the colony as a reasonable basis for the extinction of slavery. With such tardy measures abolitionist agitators were not content, and the government was persuaded to pass a law providing for immediate emancipation.|| According to the reports of the government agents, the slaves in the colony were valued at three million pounds sterling.¶ It was provided that the colonists should be paid about one-third of this amount in 3½ per cent consols. News of this decision, says Theal,** "created a panic greater than any ever known before in South Africa. A large proportion of the late slaves were mortgaged to the various institutions for lending, and the mortgage bonds invariably contained a

* Theal, vol. iii. p. 336, 242, 259.

† Lucas, vol. iv, p. 154.

‡ As to the treatment of slaves, see Theal, vol. iii, pp. 407-412.

§ Theal, vol. iii, pp. 413-14.

|| Theal, vol. iii, pp. 416-19.

¶ Lucas, vol. iv, p. 146.

** Theal, vol. iii, pp. 422-23.

clause covering all other property.* At once there was a demand for the redemption of the bonds, and goods and effects of all kinds had to be sold at enormous losses." The effect of the wholesale emancipation, however, did not stop here. The freedmen became a horde of vagabonds and vagrants, running at large about the community.† Petitions were made asking for protection, but no redress could be had.

Some religious zealots also made representations that the Dutch *commando* system, the only effective protection which the colony had against the migratory Bantu tribes that were pressing upon it from the north and east, was cruel and was used for selfish ends.‡ The system was abolished. When on Sunday evening, December 21, 1834, the sixth Kaffir invasion began, and some twelve thousand Kaffirs crossed the frontier and began to raid the eastern settlements, they found no commandos to meet them. The damage suffered by the settlers was enormous; whole regions were depopulated. At the very time when the Dutch were in the field striving to keep back these migrating hordes, religious agitators in England were representing that the colonists themselves had stirred up the war in order to obtain more territory. Similar representations had formerly been made to the governor, but on investigation he had found the charges groundless.§ Not only did these agitators excite English public opinion against the Boers, but they obtained audience in the cabinet and the House of Commons. Remonstrances poured in from Cape Colony; Boers and Englishmen alike denied the charges and asked that a commission be appointed to investigate. The home government not only refused to appoint a commission, but also refused to admit evidence against the statements of their

* This was largely due to the devastating wars which the colonists had suffered.

† Theal, vol. iii, pp. 422-23; Lucas, vol. iv, pp. 147, 149.

‡ Theal, vol. iii, pp. 65, 67, 157, 243.

§ Theal, vol. iii, p. 169. (For particulars concerning the conduct of Dr. Philip and his associates, see Theal, vol. iv, pp. 343, 346, 348, 349, 377, 425-27, 439.)

accusers.* Lord D'Urban, who, as governor, had obtained an intimate knowledge of the conditions in the colony, in an address to the home government characterized the Boers as "a brave, patient, industrious, orderly and religious people, the cultivators, the defenders and the tax contributors of the colony."† The home government, however, would hear nothing favorable to the colonists. Every settler, Briton and Boer, was deeply incensed. Englishmen sought remedy in endeavoring to prove that the judgment of the home government was wrong. The Boer, however, having his defence of his home and of British sovereignty turned against him, in addition to all the other calumnies and injuries from which he had suffered, felt driven to leave the land of his birth and seek refuge in the veldt.

The way for the "Great Trek" was partly prepared by a recent Zulu invasion, which had swept the native tribes from the great plain north of the Orange River. So thoroughly had the country been depopulated that a man could travel on horseback for days without seeing a habitation. The Boers decided to go out into this open wilderness and get away from British authority, to go where they could live in peace and honor.‡ Across the Orange permission to settle was gladly given by the smaller tribes in exchange for promises of protection against invasions by the Zulus and Matabeles. In 1836 the Boers made overtures to Dingaan, the Zulu chief, for permission to settle in that part of Natal

*Theal, vol. iv, pp. 60-67.

†Theal, vol. iv, pp. 83-84.

‡ They did not go, however, without consulting the Cape authorities. The governor declared that he "could see no means of stopping emigration except by persuasion and attending to the wants and necessities of the farmers." The Attorney-General, Mr. A. Oliphant, said that "it seemed next to impossible to prevent persons passing out of the colony by laws in force or by any which could be framed." Captain Storckenstorm replied to the inhabitants of Uitenhage province that he "was not aware of any law which prevented any of his majesty's subjects from leaving his dominions and settling in another country, and such a law, if it did exist, would be tyrannical and oppressive." After such representations, the Boers thought themselves free to go, and openly published their intention of going out and setting up a separate government. (See Proclamation.) Theal, vol. iv, pp. 89-90.)

which had been depopulated by Tshaka's invasion in 1820. Dingaan received them with tokens of friendship. A few English traders had secured a grant of one hundred square miles of land about Port Natal. From time to time they had asked for British protection, but had as often been refused. When Reteif, the leader of the Boers, made his purpose known to them he was met with every encouragement. On his return he brought his settlers up into the Drakensberg, where they encamped, while Reteif, with about sixty of his men, visited Dingaan at his kraal to make final arrangements. They were again received with every appearance of cordiality, an agreement was prepared by a missionary living with the Zulus and signed. The Boer company was then asked to join in a feast, and while they were seated unarmed before the king they were seized and hurried away to be cruelly murdered.* The Zulu warriors then fell upon the immigrants in the mountains, where some three hundred others were massacred. Thus began the war between the natives and the Dutch in Natal. The Boers hurried into laager, they formed commandos, others joined them from the Orange valley; a fearful war was waged; finally (1838) at Blood River a decisive battle was fought, in which some three thousand Zulus were killed. A year later a brother of Dingaan, Panda by name, succeeded him as chief of the Zulus, and entered into alliance with the Dutch farmers. The traders at the port had fled at the beginning of hostilities, and though later some of them ventured back they all ceded their rights to the Dutch. The emigrant farmers became supreme from St. Lucia Bay to the gate of St. John. The first formal organization of government among them was in 1836. In June, 1837, a volksraad was elected to enact what simple laws were necessary, and Pieter Retief was placed at the head. In 1840 the Boers opened negotiations with the governor at the Cape to secure

* For the details of this cold-blooded massacre we are indebted to the accounts of the missionary who was compelled to witness it.

recognition of their independence. But the end of their trouble was not yet. The bonds of British allegiance still hung over them.

In July, 1838, Governor Napier issued a proclamation inviting the Dutch to return to Cape Colony with a promise that their grievances would be redressed and intimated that at his leisure he would take possession of the port of Natal.* In the following November he sent a detachment of troops to Natal and asked the home government to support his action. This, however, the government refused to do, so a short time afterward the troops were withdrawn.† Matters drifted on four years longer, the English neither consenting to recognize the immigrants as an independent people nor assuming to take control. Then ships began to stop at Port Natal to trade; in the spring of 1842 an American ship called, and soon after a Dutch vessel. When knowledge of these facts reached Capetown, a British troop was again sent to occupy the port.‡ In April, 1843, the British Government definitely declared Natal to be English territory. After several protests from the Boers, backed up, however, by little open resistance, Natal and all the country which the emigrant farmers had won was left to the British. The liberty-loving Dutchman was again thwarted in his hopes and ambitions; rather than live under the rule of those whom he considered his oppressors, he retraced his steps to the dusty plains of the interior.§

From here the Dutch continued to send up petitions for the recognition of their independence, but only refusals and delays resulted. Conflicts ensued between Boers and British. Sentences of outlawry were pronounced upon Boer leaders and afterward withdrawn. Finally, because of the expense of maintaining government over them and the

*Lucas, vol. iv, p. 200.

†Lucas, vol. iv, p. 201.

‡Lucas, vol. vi, p. 202

§Lucas, vol. vi, pp. 204-208.

utter worthlessness of the territory they occupied to the British, and of a change in English political thought, the Boers were granted the independence for which they had so long struggled. In 1852* the "emigrant farmers beyond the Vaal" were conceded "the right to govern and manage their own affairs, and to govern themselves without interference on the part of Her Majesty, the Queen's governments." In 1854 Her Majesty renounced all dominion and sovereignty over the Orange River Territory, and specifically provided that "the British Government has no alliance whatever with any chiefs or tribes to the northward of the Orange River, except with Adam Kok, the Griqua Chief.† Such is the history of the first period in the struggle between Boer and Briton. Henceforth the dealings between the two peoples fall within the realm of international law.

By the conventions of 1852 and 1854 two important relations were established. In the first place, the Boer people were absolved from their allegiance as British subjects and recognized as an independent nation. In the second place, stipulations were made which established what is now known as the sphere of influence of Great Britain in South Africa. By the Sand River Convention (1852) it was agreed that no encroachments should be made by Her Majesty's government on the territory north of the Vaal River. There was also a written statement drawn up and signed by the commissioners that the British Government should have no authority north of the Orange River, west of the point where the Vaal flowed into it.‡ This, however, was a separate memorandum and was not sent with the convention to the higher authorities for ratification. By the Bloemfontein Convention (1854) the British Government disclaimed any relations whatever with any native chiefs or tribes north of the Orange River except with Adam Kok, the chief of the

*State Papers, vol. liv, p. 1112.

†State Papers, vol. lvi, p. 328.

‡Theal, vol. v, p. 15.

“Griquas.” The same year they disclaimed any relations with him* and he sold to the Free State all sovereign rights of his clan to the territory north of the Orange.† All international relations, therefore, were established on a basis of complete good feeling between the races.

The history of South Africa since 1854 hinges upon four important events, viz.: (1) The Basuto wars, (2) the discovery of diamonds near the confluence of the Orange and the Vaal, (3) the assumption of British sovereignty in 1877, (4) the discovery of gold in the Witwatersrand in 1885. The events associated with these leading facts constitute distinctive epochs in the history of the Boer Republics.

After the emigrant farmers had driven out the Matabele, who had crowded down upon them from the north, they enjoyed a few months of peace. Moshesh, the chief of the Basutos, was friendly.‡ It was arranged between him and the Boers that he and his people should occupy a territory between the Caledon and the Orange, and in this way the Orange Territory was divided between Boer and savage to the satisfaction of both. The war spirit of the Zulu had been temporarily crushed in Natal. Gradually, however, the Basutos grew restless; they did not like the restraint of settled boundaries. They were a stalwart race, fierce in battle, well organized in clans, their fighting men outnumbering the Boers ten to one. Moshesh was a man of extraordinary ability, and while he was desirous of humoring his chieftains, he did not wish to appear to be the aggressor for fear of enlisting the co-operation of the Cape colonists with the Free Staters; he, therefore, allowed the border chiefs to irritate the Boers by making incursions across the boundary and driving off the cattle.§ Each incursion of this kind was followed by protests, by demands for restitution of

* Theal, vol. v, pp. 8-9.

† Theal, vol. v, p. 93.

‡ He had been an ally of the Boers against the English.

§ Theal, v, pp. 10, 50, 98, 101.

property and punishment of offenders. Each demand was met by promises but no steps were taken to carry these into effect and no effort was made to prevent subsequent raids. Matters went on from bad to worse till the relations between Boers and Basutos became strained almost to breaking. At the same time Moshesh was making representations to the Cape authorities to enlist their sympathy. But Governor Grey had agents watching the Basuto and found that Moshesh was playing double; he found that at the time the great chief was making overtures of friendship he was trying to stir up a war in Natal.* He hoped to engage the Cape forces there, while he and his warriors swept the Orange Free State.

Finding that they could not secure reparation the Boers finally sent a commando after the Border clans to recover the cattle stolen and the first Basuto war (1856) was begun. It was a life and death struggle for the Boers. They could withstand the attacks of the blacks when in laager but could not conquer them or stop their raids. They could drive them from the open plains but they could not cope with them in the mountains. For months this conflict raged with fearful results. The Cape governor finally offered to act as mediator† and an armistice was declared. An adjustment was then made, by which boundaries were definitely marked off and mutual promises exchanged for the adjustment of future claims. Again was a short-lived peace disrupted by similar raids. Demands, broken promises and reprisals were followed by a second Basuto war.‡ This time the Boers were better prepared; they forced the Basuto to make a peace, by which the natives agreed to become subjects of the Boer State.§ Moshesh, however, found his chiefs dissatisfied with this arrangement and a third war broke out,||

* Theal, v, p. 21.

† Theal, v, p. 22.

‡ Theal, v, pp. 99-105.

§ Hertslet, p. 329; Theal, v, 204.

|| Theal, v, pp. 245-55.

in which the Boers had all but succeeded in reducing the Basutos to submission.* Before the beginning of the war Moshesh had made overtures to the Cape for his people to become British subjects, but the government refused to treat with them or to become responsible for their acts. Now Moshesh begged the governor to extend British protection. The governor found that he would be supported by the home government and accepted the proposal. In the midst of the campaign, when success to the Boers was almost within reach, the governor notified them to desist on the ground that they were attacking British subjects. The Free Staters were outraged. They protested, but all in vain. A treaty was forced upon them by which the boundaries of Basutoland were re-established, not at the place where they stood before the war, but so as to include much land that the Basuto had previously ceded. When the boundaries were settled, Basutoland was annexed to and made a part of the imperial realm.†

The first diplomatic contest was over. The British had crossed the Orange, and the Boer was left with the feeling of bitterness which comes from the conviction of having been the victim of adjudication by superior force.

A short time after the final adjustment of Basuto affairs, diamonds were discovered on some of the Boer farms, north of the Orange, near the mouth of the Vaal. As above stated, Adam Kok, the only chief with whom the British had claimed any relation, had disapproved of the arrangement made for him by Sir George Clark in 1854.‡ Later, recognizing his dependence on the English, he tried to open negotiations, but, being informed that it was too late,§ he sold the sovereign rights of himself and clan to the Orange Free State.|| His headquarters had been at Philippolis.

* Theal, v, pp. 261-66.

† State Papers, lxx, p. 322.

‡ Theal, v, p. 8.

§ Theal, v, p. 9.

|| Theal, v, pp. 9, 93.

To the west was the Griqua clan of Cornelius Kok, and still further west, on the Orange, beyond the Vaal, were Waterboer and his Griqua followers. In April, 1854, the governor of the Free State recognized the territorial claims of Cornelius Kok,* and, a dispute arising between him and Waterboer concerning boundaries, the question was submitted to arbitration. The jurisdiction of Cornelius was adjudged to be circumscribed by the Orange and the Vaal on the west, the Modder River on the north, and a line subsequently known as the Vetberg line in the east.† Waterboer's domain was held to be wholly to the west of the Vaal, but did not include any part of the lands afterwards found to be especially valuable for diamonds. It was subsequently agreed between Cornelius Kok and the Orange Free State that the former should enjoy certain property, but not sovereign rights north and east of the Vetberg line.‡ After diamonds were discovered, a flood of adventurers poured into that portion of the country. The richest district, however, was found to be north and east of the Vetburg line, and along the Vaal north of Waterboer's recognized territory. With the influx of diamond diggers, the Free State made provision for the government of the territory south of the Vaal, and the Transvaal Republic made similar provision for that to the north.§ The Griqua chief, Waterboer, however, opposed the claim of the Orange Free State on the ground of an arrangement which his father had made many years before with Adam Kok. David Arnot, a missionary, urged the claims of the native Batlapins and Barolongs to that portion of the diamond district north of the Vaal. Waterboer, like Moshesh, invited the intervention of the Queen, with the result that British sovereignty was proclaimed over that portion of the diamond district claimed by the Orange Free

* Theal, v, p. 7.

† Theal, v, pp. 23, 91. Cf. map,

‡ Theal, v, pp. 23, 24.

§ Theal, v, p. 332.

State.* The British held possession under protest † till 1876, when the matter was settled by a Convention in which the British Government agreed to pay the Orange Free State £90,000 as compensation for its assumption. ‡

The dispute between the native tribes and the Transvaal finally culminated in an agreement to arbitrate by a tribunal of three. Arnot, representing the natives, chose Campbell, the English magistrate in that part of the diamond district already taken under British control; § the President of the Transvaal chose a Free State Boer; Vice-Governor Keate, of Natal, was agreed on as the third. The Dutch did not know that there was an understanding between the natives and the British at this time, therefore the fact of having two British officials on the board did not seem objectionable *per se*. The award gave the whole district to the natives, who thereupon transferred it to the British. The Volksraad refused to ratify the award on the ground of the lack of authority in the President to make a final determination, and for the further reason that there was a secret understanding which would make Mr. Keate an interested party. || The adjustment, however, was sufficient to give the English possession, and, though later treaties relinquished much of the territory, no part of the diamond district was given up.

Popular sentiment in the republics was now at the boiling point. It was only on account of the oppressive sense of weakness on the part of the Boers that hostilities were averted. Protests availed nothing. They could not hope to wage war successfully with Great Britain, and could only endure what they esteemed to be wrongs forced upon them by a more powerful nation. The charges formulated by the Boers against the English were as follows: (1) Interference on behalf of the Basuto, Moshesh; (2) interference

* Theal, v, p. 358.

† Theal, v, p. 394.

‡ Hertslet, p. 818; State Papers, lxx, p. 330; Lucas, iv, 249.

§ Theal, v, p. 361.

|| Theal, v, p. 369.

between them and the Griqua captain, Waterboer, with a design of acquiring the territory in which the diamond fields were situated; (3) interference between them and the Bantu tribes; (4) the appointment of magistrates and stationing of police on the Vaal; (5) the dismemberment of the Orange Free State and the appropriation of its territory; (6) the stoppage of ammunition to the Orange Free State; (7) the open and undisguised sale of guns and ammunition to the blacks.* But charges served only to chafe their own soreness, and the excitement gradually quieted down. Still in the Dutchman's memory was the never-ceasing sting of wrongs unavenged.

The acquisition of Basutoland had cut off all possibility of the Orange Free State's extending its eastern boundary to the sea. It was the beginning of the northward movement of British dominion along the coast that did not stop until it came in contact with the claims of the Portuguese at Delegoa Bay. The acquisition of the diamond fields, however, was of far greater importance. This opened a clear field for British enterprise into the whole interior of South Africa. The diamond fields were a source of incalculable wealth, of which it had already availed itself. What was still in store for those who would take the risks of exploration and undergo the hardships of prospecting, the future alone could tell. The immense wealth suddenly acquired about Kimberley, was a motive to adventure that carried fortune hunters into the remotest corners of the dark continent.

The next find which set the currents of English migration northward was the discovery of gold in the Leydenberg district. This was in the eastern part of the Transvaal, and was most easily approachable by way of Delegoa Bay. The district did not prove as rich as at first anticipated, but it served to carry quite a large English contingent into the republic. At this time the Transvaal Republic was in a weak condition, politically.† The agricultural

* Theal, iv, p. 372.

† C., 1748, p. 103; C., 1877, p. 12.

Boers found themselves in the financial situation of all new agricultural communities when not financed and controlled by older communities having a large economic surplus. They had been through a paper money era similar to that through which the United States passed a half century earlier. Though their country and their political independence was to them dearer than life itself, their institutions as well as their economy were in an unsatisfactory state. Taxation was insufficient to meet the needs of the treasury ; complications with the natives threatened war, in fact, hostilities had begun, and for several months a condition of insecurity prevailed in the regions of the Leydenberg gold fields.* This was to imperialists an opportunity. As a result of representations made to the home government, Sir Theophilus Shepstone, a man thoroughly imbued with " Greater Britain " ideas, was made special commissioner to inquire respecting certain disturbances which had taken place in the territories adjoining the colony of Natal. Before leaving England he was empowered, by commission from the Queen,† to annex all territories or parts of territories which were made the subject of his inquiry if he thought the circumstances justified such a course. In January, 1877, Shepstone arrived at Pretoria. His presence there brought matters to a climax. President Burgers pointed out that the people had to choose between radical changes in their government, or annexation to Great Britain. The Volksraad took measures to improve their financial condition and to enforce the collection of taxes. They then adjourned for the coming presidential election. During this political campaign and the contention of opposing parties involved therein, Shepstone went out into the Church Square of the Boer capital and read the proclamation, declaring that the Transvaal Republic had become British territory.‡ His proclamation set forth, however, that

*Lucas, iv, p. 273; Parl. Papers, lvii, p. 479; C., 3114.

†C., 1776, pp. 1, 2.

‡Lucas, 274; Accts. and Papers, xlviii, pp. 333, 342.

"the Transvaal will remain a separate government under its own laws and legislation, and that it is the wish of Her Most Gracious Majesty that it shall enjoy the fullest legislative privileges compatible with the circumstances of the country." The manifesto was artful. It contemplated no immediate change in administration; it proposed no shock to established political institutions.

President Burgers made a formal protest against annexation, but immediately retired to the Cape on a pension.* The executive council, however, proclaimed it an act of violence and sent Vice-President Kruger and the attorney-general as delegates to England to plead their cause.† Lord Carnarvon declined to reconsider the act of annexation, but promised that Dutch interests would be fully considered. The proclamation purported to be in response to numerous addresses, memorials and letters.‡ It should be noted, however, that most of these came from the Leydenberg gold fields. The avowed object of the assumption was to protect the British possessions from the dangers to which they were exposed by Dutch encroachments on native territory and to reclaim the country from the anarchy prevailing within. Attention was especially called to the imminence of a war over a long standing boundary dispute between the Boers and the Zulus.§ Chief Cetewayo had long been training up a large and well-organized army of sturdy celibate warriors; they had made a regular practice of obtaining employment in the diamond and gold fields and after obtaining arms and a supply of ammunition returning to the Zulu ranks; the Zulu forces were assembled in strength ready for invasion.|| To settle the boundary dispute, Sir Bartle Frere,

* There was no way of explaining his action to the Boers except that he had been bought and that he was in collusion with Shepstone.

† Many of the Cape Colony Colonists also protested, C., 2482, p. 37.

‡ Lucus, iv, p. 273. For evidence, see C., 2482.

§ C., 1748, p. 251. The Boers claimed a small strip of territory which had been ceded to them by Pauda, but Cetewayo refused to recognize this claim. Cf. map.

|| The territorial dispute was over a strip of land that had been ceded by the Zulu Chief Panda, but Cetewayo after supplanting Panda refused to recognize the grant.

December 11, 1878, recognized most of the Zulu claims to territory, but required them to make restitution of property taken and to surrender offending marauders. The Zulus refused to comply and an attempt to enforce this award by force brought on the war between Great Britain and the Zulus.* British arms were at last successful and Zululand was annexed to the Queen's domain. War was also precipitated with other native tribes with the same results. While the British authorities controlled the Transvaal they reduced to subjection all of the native tribes in whose behalf they had assumed to take control of the Boer government.

The Boers refused to fight under English officers; they maintained that, since Great Britain had assumed to deal with the natives, she could fight her own battles. When the Boer commissioners returned from London the people gathered outside of Pretoria to hear their report and having heard it voted that they would not consent to British rule.† They again urged their protestations against the assumption of the commissioner. They asked that the question be submitted to a "*plebiscite*." The only response was the arrest of Boer leaders on the charge of high treason. No hope of amicable settlement being left, they finally resorted to arms and took the field against the British authorities and at Laing's Nek and Majuba Hill defeated the forces sent against them. Fortunately for the Boers, there was, about this time, a change of sentiment in England. The wars which had been precipitated in various parts of the world, by the order of the imperialists, met with disapproval and the liberal party gained in strength. Mr. Gladstone and his colleagues made an issue of this policy and openly denounced it in the parliamentary campaign. The liberals were successful, and though the administration did not succeed in preventing a conflict between the forces in South Africa, no effort was made to retrieve the loss or console the imperialist's

*Lucas, iv, p. 80-282; C., 2222.

†Lucas, iv, p. 287 *et seq.*; C., 2367, 2482, 2505, 2866.

chagrin at defeat in the first contest. In 1881, a peace was concluded * and later a convention entered into granting to the Boers a qualified independence under the suzerainty of the Queen, † and, in 1884, in response to demands, further concessions were made granting the South African Republic entire independence, ‡ except for a right reserved by the British Crown to disapprove of treaties made with foreign powers within six months after notice of their negotiation.

The fourth and, as current events may prove, the last epoch of Boer national history, begins with the gold discoveries of 1885. Within a year, the de Kaap gold field in the east and the Witwatersrand in the south of the South African Republic disclosed a wealth of precious metal that set the whole world astir. Adventurers from every land flocked to Barberton and to Johannesburg and within a few months two mining towns sprang up having a population exceeding that of the entire Boer State beside. Most of these adventurers were British subjects, having an aversion for burghers and burgher institutions and a strong attachment for the government which, as the Boers conceived, had been a menace to their liberties since the time when the English first set foot on South African soil.

The naturalization laws prior to 1877 had been liberal. With the exception of a few changes the same liberality was shown until after the immigration of the gold seekers. It would seem therefore, that there was no aversion to allowing full rights of franchise to foreigners coming into their midst until the danger of "swamping" the Boer State presented itself. For them now to extend the privilege to all, would be to hand over the reins of government to "aliens" who had few interests in common with themselves—to those who, as the Boers thought, had come only to grow rich and then return to their old homes. The government therefore

* C., 3114, pp. 48, 58.

† Rept. of Com., xxviii, pp. 37-44.

‡ State Papers, lxxv, p. 5.

thought it the part of wisdom to fix a time condition such as would insure permanence in residence, permanence in sympathy and interest—conditions such as would secure stability of government based on the welfare of those who would make the South African Republic their permanent home. Laws were passed which required fifteen years' continuous residence before the full franchise could be obtained.*

This provision would, in all probability, have provoked little opposition had it not been for the entire difference in economic interests of the "aliens" and the farmer Boers. As already indicated, the Transvaal, till this, had been hampered by a paucity of capital. The self-sustaining agricultural calling of its people, while sufficient for the maintenance of the individual, left little margin for the support of a highly organized government. Public finances had been in a bad way and this was one of the reasons assigned for the assumption of British control in 1877; a better financial scheme had been one of the conditions prerequisite to the settlements of 1881 and 1884, whereby the government was again surrendered to the burghers. The enormous production of gold, the increase in commerce following the sudden influx of population, the enlarged demand for explosives were conditions making an adequate revenue possible. A tariff was laid on imports and a tax was placed on the mines. After the Cape government had refused to supply ammunition, the Volksraad had provided a factory of its own. This was a government monopoly at first but later was turned over to a chartered company which was required to pay an excise. As fiscal measures these methods were remarkably productive, but in proportion as they were productive of revenue they were a charge on the industry of the country. Most of the burdens fell on the aliens. The farmers and cattle raisers purchased comparatively little on which tariff duties were levied; they did not

* In 1881, the franchise was granted after two years' residence. In 1885, the time was extended to five years. In 1887, a fifteen years' residence was required.

seriously feel the tariff burden. On the other hand, those who lived in the towns could not get supplies enough from the country and had to rely largely on imports. The situation in this respect was quite similar to that in England before the repeal of the corn laws and heavy tariff duties; it seemed to the Outlander townsman quite as insufferable. The other forms of taxation fell largely on the capitalist. The amount which the dynamite monopoly charged for explosives took a large item of profits out of mining and many of the low grade workings were thus rendered impractical. Then there was the tax on the mines; this was not in itself exorbitant (five per cent on income and two and one-half per cent on leases) but when added to the tribute paid to the dynamite monopoly and the tariff on chemicals, machinery, etc., it was a source of great irritation. The most objectionable feature was, that, directly or indirectly, the aliens were made to contribute most of the revenue, while for it they received little or no return. They asked for public improvements in their new cities but could not obtain adequate appropriations. The Boer government seemed to be deaf to all their claims.

While within the Transvaal there was growing discontent, matters were so shaping themselves without as to still further complicate the situation. The idea of a Confederation of British South Africa and the extension of the British sphere to the Zambezi, had long been the dream of imperialists, and the ruling classes at the Cape had persistently urged this upon the home government. It was the hope of realizing such a dream that had inspired Lord Carnarvon, Sir Bartle Frere, and the other leaders of the conservatives in power in 1877, to bring the Transvaal under British rule. After the consolidation of the diamond companies, Mr. Cecil Rhodes became the imperialist leader in South Africa and marshaled behind him all the corporate interests and combined influence of his many associates. The Boer Republics stood in the way of the success of imperialistic enterprise. Then too the

"scramble for Africa," which began with the efforts of the King of Belgium to consolidate the native tribes of central Africa under Belgian rule and which resulted in the carving out of the Congo Free State, the assertion of German protection over Damaraland and Namaqualand, and the joint effort of European powers to check the British sphere all lent zest to ambition and brought the English popular mind into temper for concerted action. Under such circumstances the "little England" party lost its standing and an imperial policy gained fullest support.

With such an atmosphere surrounding the Transvaal the grievances of the "aliens" within could not long be disregarded without serious trouble. Those in control of the mines were of the same ilk as those who were seeking to extend British dominion and any form of British control was to them more to be desired than the rule of the agricultural Boers; those in control of the diamond district, Bechuanaland and Rhodesia, were ever willing and anxious to bring the republic under the political and economic system of which they were the South African managers. The first fruit of this situation was a conspiracy between the political and economic managers of British South Africa on the one hand and the "alien" malcontents of the South African Republic on the other. The untimely capture of Dr. Jameson and his six hundred British regulars, together with the prompt measures taken to prevent co-operation between "aliens" within and "aliens" without, forced the British Government either to openly admit its complicity in and give sanction to a disreputable plot to overthrow the South African Republic and bring it under British rule, or to disavow the acts of its officers.

This frustration of clandestine enterprise gave to effort a new direction. A peaceful revolution was now planned, having its forces organized under the "National League." In a manifesto the grievances of the Outlanders were formulated and published, and a campaign begun to obtain the support

of popular opinion. The Boers looked upon this organization as a menace and it accomplished little in the way of redress. Finally the union appealed to the Queen. A petition was sent up containing over 21,000 names asking for British intervention in their behalf.* The grievances complained of by the "common" Outlanders were: (1) the excessive tariff on articles of domestic consumption; (2) the lack of proper water supply, sanitation, etc., in Johannesburg; (3) the preferment of the Dutch language; (4) religious favoritism; (5) oppressive police surveillance and lack of protection. The conditions of special grievance to the capitalists were: (1) the dynamite monopoly; (2) the tariff on machinery, chemicals, etc.; (3) the tax on the mines. The corrective measures advocated by the National League were: (1) an equitable franchise law and fair representation; (2) a constitution which should be framed by competent persons selected by representatives of the whole people; (3) responsibility to the legislature of the heads of the great departments; (4) an efficient civil service with adequate provisions for pay and pensions; (5) the removal of religious disabilities; (6) liberal education and the equality of the Dutch and English languages; (7) free trade in South African products. It was to secure these reforms that the British Government sought to intervene in the internal affairs of the republic.

The Boer authorities urged that such intervention would be wholly unwarranted, and not only contrary to international law but also contrary to express treaty stipulations; that they were willing to do what was reasonable and just, but that the demands were excessive and unreasonable. They urged that they could not be expected to immediately enfranchise the aliens nor so change the constitution as to

* While the "national union" was appealing to the crown for aid, another party was attempting a solution of the trouble through Pretoria. Believing in the ability of the people to cope with the difficulty, a counter petition was sent up from Johannesburg to the Transvaal government containing signatures of over 22,500 Outlanders, denying many of the charges made in the petition to the Queen, disapproving of the demand for foreign intervention and expressing confidence in the republic.

give to aliens the control of the government. Concessions had already been made in the franchise.* Moreover the president proposed a still further reduction of the time for full electoral rights from fourteen to nine years. A material reduction was made in the tariff and the price of dynamite was lowered. These changes, however, did not satisfy; overtures and negotiations passed between the two governments, and a conference between the representatives of both nations was held at Bloemfontein, May 30, 1899. Here Sir Alfred Milner, the British high commissioner, urged the franchise and the basis of representation as the principal questions at issue; and it seemed that in case an agreement could be reached as to these, all trouble could be avoided. The terms of franchise proposed by him were as follows:

“That every foreigner who can prove satisfactorily that he has been resident in the country for five years, and that he desires to make it his permanent place of residence, that he is prepared to take the oath to obey the laws, to undertake all the obligations of citizenship and to defend the independence of the country, should be allowed to become a citizen on taking that oath. This should be confined to persons possessing a certain amount of property or a certain amount of yearly wages and who have good characters.”†

To this scheme President Kruger interposed the objection that “if the 60,000 (Outlanders) came in immediately they would swamp the 30,000 old burghers.” Milner answered to this that “it would be unreasonable to give the franchise to the 60,000 at once. He proposed that a proper adjustment be effected by so arranging the constituencies that, while the Outlanders would not have a “contemptible minority,” the old burghers might retain an effective control

* Before 1890 there had been only one chamber to the legislature, and after 1887 fifteen years of residence was required before an alien could obtain the right to vote for members. In 1890, the constitution was so changed that there were two legislative chambers instead of one, and the naturalization laws were altered so as to allow aliens to become naturalized and vote for members of the second house and for local elective officers after a two years' residence; two years later they could become members of the second house, and ten years later, fourteen years in all, the full franchise could be obtained.

† C., 9404, p. 25.

of legislation. President Kruger objected that the immediate enfranchisement of a majority of Outlanders, even though arranged in minority districts, would give to the Outlanders control by reason of the referendum provisions of the constitution, and proposed instead a scheme of gradual enfranchisement. By Kruger's plan the Outlanders were to be divided into four classes: (1) those who had already taken out papers might obtain the full franchise five years from the date of taking out; (2) those who had fixed their residence prior to 1890 might become citizens in two years; (3) those who had been residents two years, might become naturalized five years hence, and (4) all others might, by conforming to the conditions of naturalization, obtain the full suffrage in seven years. The residence qualification of voters for local elective officers and for the election of members of the second house, were to remain as before.

This plan was not satisfactory to Milner. Kruger then proposed that all matters of difference be considered and an attempt be made to come to an agreement by mutual concession. The Jameson raid indemnity, the question of Swaziland, and a plan for arbitration were proposed. Milner refused to consider any of these; he put forth the franchise as the all-important issue, and refused to consider any other until this was settled.* The objection made to considering arbitration was that Her Majesty's government would "not have any foreign government, or any foreign interference at all between them and the South African Republic."† "If," said Milner, "some other method can be devised of submitting to an impartial tribunal questions which may in the future arise between us, and perhaps even some questions which exist at present. . . . I will lay it before Her Majesty's government and do what I can personally to assist in a satisfactory solution of the matter." President Kruger then proposed a non-political arbitral board or court, but

* See C., 9404, pp. 32-6.

† C., 9404, p. 35.

nothing came of this, and the conference ended without anything having been accomplished.

Left to himself, the President then brought before the Volksraad a law embodying his plan for franchise reform. The law as passed, however, was objectionable, and still the franchise question hung in the balance of popular opinion, while the friction between the two governments went on increasing. The Pretoria Government at last conceded all that had been asked at the Bloemfontein Conference. The proposition officially submitted was: (1) "a five years' retrospective franchise, as proposed by His Excellency, the High Commissioner (Milner) on the first of June 1899;" (2) "eight new seats in the first Volksraad" (ten in all); (3) that "the new burgess equally with old burghers be entitled to vote at the election for state president and commandant-general." * In return the South African Republic asked Her Majesty's government: (1) "in the future not to interfere in the internal affairs of the South African Republic;" (2) "not to insist further on its assertion of the right of suzerainty;" (3) "to agree to arbitration." † Definite answer to this proposition was delayed till September 8, when the High Commissioner replied that "the settlement of other questions of difference, concurrently with that of the political rights of the Outlanders is of great importance. It is to my mind one of the most objectionable features of the reply of the South African Republic . . . that it absolutely makes no reference to the existence of any questions other than those of *citizenship* and *arbitration*." ‡

The concessions made did not seem to help matters, for no sooner were they announced than the government consulted the officers of the National League, and still further demands were made. They now asked for a two-year

* C., 9521, p. 46.

† C., 9521, Pp. 46.

‡ C., 9521, pp. 63-4. A large part of Milner's reply, requiring over four quarto pages of printed matter to set it forth, is an attempt to harmonize his present position with that taken at the Conference three months before.

residence qualification for naturalization, and, as a means of securing the desired results, that the forts of the South African Republic be dismantled and demolished ; that the Boer population be disarmed, and that " some material guarantee more substantial than mere paper conventions " be given.* But from this time forth the questions in dispute were not so much matters concerning the Outlanders, as those pertaining to the relations of the two governments. The British demanded a joint commission of inquiry, and asserted the right to interfere in all future questions on the ground of suzerainty; they also refused to treat the South African Republic as an independent people in matters of arbitration. The South African Republic repudiated all claims of British right to interference by joint commission or on the ground of suzerainty and urged arbitration. The tension between the two governments increased. British forces in South Africa were strengthened, and troops were moved toward the frontier. Propositions were made and withdrawn. Finally, October 9, the Transvaal Government, interpreting the attitude of Great Britain as one of menace and coercion, sent a message to the High Commissioner " to request Her Majesty's government to give it the assurance: "

(a) That all points of mutual difference would be regulated by the friendly course of arbitration or in whatever amicable way might be agreed upon.

(b) That the troops on the border of the Republic would be instantly withdrawn.

(c) That all reinforcements of troops which had arrived in South Africa since the first of June, 1899, would be removed from South Africa within a reasonable time with a mutual assurance and guarantee on the part of the Transvaal Government that there would be no attack upon or hostilities against any portion of the possessions of the British Government within a period of time to be subsequently agreed upon.

* C., 9530, pp. 9-11.

(d) That Her Majesty's troops, which were on the high seas, might not be landed at any port of South Africa.

The request was accompanied by the ultimatum that in case of "no satisfactory answer being received" within forty-eight hours, the Transvaal would "with great regret be compelled to regard the action of Her Majesty's government as formal declaration of war." Instead of giving such assurances, Mr. Chamberlain* instructed the British agent "to ask for his passports." Thus was war begun with the Transvaal; the Orange Free State, considering that its national independence hung in the balance with that of the Transvaal joined in the issue.

We now turn from the history of South African conflict to a consideration of the principles involved. The conflict between Boer and Briton prior to 1836 seems to have grown out of the same circumstances as did the conflicts between the home government and the other colonies. From the time of the accession of the Georges, England had been in the hands of the Tories. George III. had so far subverted the principles of the English Constitution of 1688 that the government had become a despotism. By wholesale bribery, by gifts of offices and honors to those who favored him, by taking away office, honors and pensions from those who opposed him, by high-handed measures he had realized his ambition to "be a king." During his insanity, 1810-20, his son, a dissolute spendthrift, having little regard for aught but his own pleasure, wore his mantle. The official reign of George IV. did not make matters better. The policy of the government in 1775 had driven the American colonists to revolution and later, in 1812, to a war for self-preservation; it had involved England in debt; it had brought misery and starvation to the English people. When the suffering masses of Englishmen at home undertook to hold public meetings and discuss their grievances it had dispersed them. During the ministry of the Duke of Well-

*C., 9530.

ington (1828-30) the government was driven to adopt certain reforms in England to avoid revolution. In the colonies, however, this pressure was not so keenly felt. One result was the Canadian Rebellion. The "Great Trek" was simply another consequence of this unendurable despotism.

Instead of resisting by force of arms the Boer preferred to quit the realm; but in leaving he carried with him the obligations of a subject to a sovereign. From a legal point of view the Crown would have been justified in taking measures to prevent his going. If he had left without official consent, the Queen might have insisted on the exercise of sovereignty wherever the Boer went, so long as he did not take residence in another civilized nation. No man, or group of men, has a right to leave a civilized society and government and go out into a wilderness to set up an independent establishment. The right to independent government can come only from a recognition of that right by the home government. This may come as a voluntary grant, or it may be an enforced recognition, the result of successful revolution. The Boers, therefore, had no right to independence. They went out, however, with the knowledge and consent of the agents of Great Britain. They went out under the belief that England "had nothing further to require of them." They at once instituted a government and maintained an orderly existence. They conducted their government on an independent basis for years before any attempt was made to assert British sovereignty. They were allowed to contest their right to survive with the most powerful tribes of South Africa, without assistance or proffers of assistance from the Crown. It is in consideration of circumstances such as these that Theal concludes that no Englishman can look with aught but chagrin on the acts of his government in wresting Natal from the Boers. But whatever be the attitude taken prior to 1852 the recognition of the independence of the Boer republic put to rest forever

all questions of British sovereignty; and thenceforth these nations, small though they be, were entitled to all of the amenities accorded by international law and custom.

In the subsequent transactions between Great Britain and the Boer states, however, we find a forceful illustration of the inability of a powerful nation consistently to accord to a weaker one a just settlement of difficulties where opposing interests are at stake.* By the Sand River (1852) and Bloemfontein (1854) conventions there was a clear understanding of the sphere of British influence in South Africa. The Boer republics, therefore, could feel no restraints in dealing with the native tribes north of the Orange other than the moral restraints of humanity. Such restraints, if any attempt were made to enforce them by another power, could not properly be exercised until after due inquiry, official remonstrance and notice of intention on the part of the intervening power. We find no adequate or proper steps taken on the part of Great Britain. The Basuto wars were begun with full knowledge on the part of the Cape government, and a full appreciation of the circumstances. When by the treaty at Thaba Bosigo, in 1865, the Basutos became subject to the Orange Free State, no official protest was made, nor was there any attempt at intervention in the war which followed until confronted by a demand for cessation of hostilities on the ground that Great Britain had received them as subjects. Such an act finds no place or sanction among the rules of international law governing the relations of friendly nations. Technically, it was an act of war on the part of Great Britain, which resulted in British acquisition of a portion of the territory of the Orange Free State.

The same may be said of the dealings concerning the diamond district. If a powerful nation had been in the

* This observation applies to individuals as well as to nations. It is on account of the unfitness of an interested party to render justice that courts are established. As between nations, where no such tribunal exists, where might makes right, no semblance of justice can be expected when interested nations of such unequal powers become involved in controversy.

place of the Boer states, Great Britain would never have opened negotiations with the natives for the cession of territory till after full inquiry had been made as to whether any relations existed between the republics and the tribes. On being informed that the republics claimed certain territory, Britain would have stepped in and assumed the government of this territory, only as an act of war. An act of war is of serious moment when a powerful nation is to be dealt with. It is only under greatest provocation that hostile steps are taken; but with a people powerless to resist, such an act amounts to little more than a peaceful negotiation. This is the only explanation of British action in the annexation of the diamond district. The payment of 90,000 pounds sterling to the Orange Free State and the subsequent recession of a large part of the Keate award were admissions of the untenability of the English position on moral grounds. But even in these acts it will be observed that no concessions were made against the interests of the British—they retained the diamond fields.

The assumption of control over the Transvaal State in 1877 was a complete denial of the right of the republic to exist. To support this in international law it must be shown that such conditions existed as would constitute a just cause for war. The grounds on which this action was based were: (1) that the government was bankrupt and unable to maintain order within; and (2) that native wars threatened the extermination of the Boers and consequently threatened the peace of all of South Africa. For these reasons it became the duty of the nation most affected, to intervene and establish order. In case anarchy actually prevailed, then there might have been some justifiable cause for interference and the assertion of British sovereignty, but fierce party strife or the fear that anarchy might prevail does not constitute a justifiable cause. Even the fears of the British in this case do not seem to have been well founded. In the first place, the Boers had ever proved more than a

match for natives, and furthermore, the Swazis were allies of the Boers and ready to join them in case of a Zulu invasion. In the second place, if the country was bankrupt in 1877, it was in a much more involved condition in 1881, when the British again turned it back to the Boers.* Great Britain must at least admit inconsistency in this. In the third place, the impotency of the republic does not seem to be borne out by subsequent events, for after the British had partly broken down the Boer Government, even in this disorganized condition, they asserted themselves with sufficient force to defeat the English forces which had recently overcome the natives. Laings Nek and Majuba Hill stand as a lasting reproach to the judgment of the British agents that the Transvaal was impotent to protect itself against forces then in South Africa.

The first questions arising after the discovery of gold in 1885 were those having to do with the rights of citizens of Great Britain residing within the Transvaal. A state has a right to protect its subjects abroad; it has a right to exact reparation for maltreatment of subjects by the administrative agents of a foreign government if no means of obtaining legal redress through the regularly constituted tribunal of the country exists. But all persons entering a foreign country must submit to the laws. If the laws are fairly administered

* The indebtedness on the date of annexation as officially reported was as follows:

Cape Commercial Bank Loan	£63,000
Railway Loan	93,833
Orphan Chamber Debt	16,543
Current Liabilities	128,351
Total	£301,727

Indebtedness at time of re-cession of Transvaal Government to the Boers in 1881:

Cape Commercial Bank	£48 000
Railway Loan	85,667
Orphan Chamber Debt	27,226
British Government	296,500
Total	£457,393

“they cannot, as a rule, complain of the effect upon themselves, however great may be the practical injustice which may be done to them; it is only when those laws are not fairly administered, or when they provide no remedy for wrongs, or when they are such, as might happen in very exceptional cases, as to constitute grievous oppression in themselves, that the state to which the individual belongs has a right to interfere in his behalf.” *

The *complaints* of the Outlanders respecting the tariff, the lack of public improvements, the preferment of the Dutch language and religion, the tax on mines, and the dynamite monopoly, furnish no basis whatever for interference. International law does not and could not recognize such claims. The practices complained of are common among the most civilized nations. The tariff in many respects was no higher than that of the United States; the lack of sanitation was not more startling than in some European cities; the complaints on account of language and religion might as well have been directed against England or Germany; the dynamite monopoly found its counterpart in many nations; the tax on mines was much smaller than that of British Alaska. Only one complaint could properly be made a subject for intervention, viz., that of lack of police protection and inability to obtain just treatment by the courts. This subject, however, was not a cause of serious friction between the two nations.

Neither were the *demands* of the Outlanders founded on international rights. Their demands for the franchise, for an equitable reapportionment of representation, a constitution framed by representatives of the whole people, responsibility of the administrative heads to the legislature, civil service reform and pensions to superannuated civil servants, might have been promulgated as the platform of a reform party, but are not proper matters for international controversy. Compliance with such demands might have been

*Hall, *International Law*, Oxford Edition, 1895, pp. 291-92.

expedient to avert revolution or insurrection. The very existence of the state might have depended on a better adjustment of its government to the wants of a majority of its population governed, but such representations furnished no ground for foreign intervention.*

The absurdity of the British position appears in strongest light in connection with the franchise controversy—the question which was made the main issue. It is a well established principle of government that no one, not even a citizen, has a *right* to the franchise, except as based on an act of government; the franchise is rather a privilege granted which rests on expediency. Much less may a foreigner demand enfranchisement as of right. When, therefore, England demanded the franchise for British subjects, it not only made a demand which was not based on right, but assumed to judge for the Transvaal what was expedient. But the absurdity appears still more strikingly in that its demand was one to compel a nation to allow a British subject to forswear his allegiance to Great Britain and become an alien to the country that was intervening for him on the ground of his being a British citizen. This was the attitude taken by a nation which, until within the last thirty years, did not even recognize the right of another nation to enfranchise British citizens.

The British Government has recently sought a different ground for the justification of its interference in the affairs of the Transvaal—that of suzerainty. This leads us to an investigation of the legal basis of this claim.

The doctrine of suzerainty is somewhat indefinite but the law writers are practically agreed that a protected state "is

* According to Hon. James Bryce, not even insurrection was justifiable. To use his language, "Put the grievances of which the Outlanders complained at their highest, and they did not amount to wrongs such as had in other countries furnished the usual pretext for insurrection. Life, religion, property, personal freedom were not at stake. The most that anyone suffered was to be overtaxed and to want some of those advantages which the old citizen had not possessed and did not care to have. These were hardships, yet not such as justified a recourse to arms." (Bryce, Impressions of South Africa, p. 442.)

prima facie independent, and consequently possesses all rights not expressly resigned.”* This was the position taken by Lord Kimberley in 1881, in correspondence with the Boers.† Lord Derby also announced this theory in his letter to the Transvaal delegation at London, February 2, 1894, when he stated that “*By the omission* of the articles of the convention of Pretoria (1881) . . . your government will be left free to govern the country without interference . . . and shape its foreign policy subject only to the requirement . . . that any treaty with a foreign state shall not have effect without the approval of the Queen.”‡ This was also the understanding of the parties present at the time of the making of the convention of 1884.§ The only claim made by the British was that they gained their power from the preamble of the convention of 1881, but even if such a construction comported with the general theory of suzerainty no rule of interpretation would allow of any force being given to a preamble when the articles themselves have been superseded. More than this no such claim was ever made by Great Britain until about fourteen years after the convention was entered into.

From the history of transactions between Britain and the Boer Republic, since the recognition of their independence, only one conclusion can be drawn: That while in treaty relations and in many negotiations the republics have been treated as independent nations having all the rights of parties in international law, the attitude of Great Britain has not sustained the theory. The Boers have in many instances been treated as if they were on the same plane as native tribes, without a status in international law. The British seem to have recognized no claim other than that of humanity. The Boers were treated as a race or tribe whose *individual members* must be accorded just consideration, but

* See Hall (Ed. 1895), p. 31.

† C., 2892, April, 1881.

‡ C., 3947, March, 1884.

§ C., 9507, August, 1899.

whose government should give way to a more highly developed civilization. And the Boer government has been too weak to compel respect for international rights.

The justification for British action, therefore, cannot be found in the tenets of international law and national justice; for this we must look to the principles of "higher civilization," "the higher purposes of the Empire," "progress," "imperial destiny." The ideals involved in these catch-phrases have little to do with international law or with national justice. The sanctions growing out of such ideals have given us the doctrines of "discovery," "colonization," "the obligations of civilized nations to native tribes," "spheres of influence," etc. It is by such ideals that the acts of the great nations, in forcing open the ports of China, are justified; it is on such that Christian nations demand the right of protection to missionaries among heathen peoples.

Nations, after all, are only groups of individuals associated together for the purpose of the most effective co-operation for common ends. For this, internal harmony is a prime necessity; a common law, regularly constituted tribunals of justice, representative government, local autonomy, a well-appointed civil service, and such political devices are methods for securing co-operation in the interest of the general welfare. Within the state, within the jurisdiction of the society working together for common ends, there must be an adjustment of controversies without violence,—otherwise there could be no co-operation; otherwise there would be anarchy, insurrection, and revolution. As between nations, however, such a method of adjustment cannot always be employed. Where the controversies are such as arise between individuals or do not have to do with the national purpose, with ideals of civilization and progress, a tribunal of justice may be invoked. Where, on the other hand, a nation's higher purpose or existence is at stake, the only solution is in a test of the fitness of that civilization to survive. Each nation believes that its interests are

paramount; each conceives that its ideals are better than those of its adversary; each conceives that its interests are being jeopardized, that it or its citizens are being deeply wronged by the acts of the other. The people of each become so convinced of the righteousness of their cause that they are willing to sacrifice their property, and, if need be, their lives rather than submit. All their ideals of progress, their institutions, their "civilization" is in the contest. Under such circumstances, war is inevitable.

The conflicts between natives and Europeans must be judged from this point of view. The missionary has usually supported the cause of the natives; he has lived among them and is primarily interested in their welfare; he has looked upon such conflicts from the point of view of national justice, having in mind native institutions and native customs. Gladstone and the liberal ministers were animated by the same motives. The liberal party had been active in securing reforms in national politics; it had been accustomed to strive for justice, equity and humanity in matters pertaining to the nation and national government. With such ideals before them the liberals carried their reforms into the colonies; they even assumed to deal with native tribes and inferior races according to those ideals which were esteemed necessary and proper to the internal administration of a great empire. This attitude, however, was out of harmony with ideals of "expansion" and "imperial control." When the other nations began to compete for commerce, or the great powers took steps to gain possession of native territory and to curtail British "influence," ideals of national justice were lost sight of; the party of commercial supremacy and broad dominion was given control over international relations. It is at times, when interests such as these are at stake, that the rights of weaker nations are ignored.

If we view the conflict between Great Britain and the Boers from the standpoint of British imperial policy rather than that of international law and national justice, we are

led to the conclusion that the assertion of British supremacy in South Africa was inevitable. As the dominant power, Great Britain could not tolerate the continued existence of a hostile government situated in the very heart of her dominion—a government based upon political and economic ideals inherently different from the principles of English civilization and progress. But even when viewed from this distinctively imperial standpoint, it still remains a serious question whether the same ends could not have been attained without arousing the intense racial hatred which the present struggle has engendered. No one can reasonably doubt that the unquestioned economic supremacy which the Outlanders were rapidly acquiring would ultimately result in their political enfranchisement and supremacy. By forcing the issues to a point which left the Boers no alternative but war, the British Government violated the sense of justice of a considerable portion of the people of Europe and America, and alienated the support of a large portion of her own South African colonists. The consequences may prove more serious than she now anticipates.

FREDERICK A. CLEVELAND.

Philadelphia.

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